

## **REMARKS**

Claims 1-3, 6-9, 12-14, 17-19, 21, 22, 24, 26, 29, 30, 33, 34, 36, 39, 42 and 43 are currently amended. The amendments do not introduce new matter. *See, e.g.* (with reference to US 2005/0187544 A1 / App. No. 10/784,316), para. 99 and Figs. 12-15 (suction device includes main body and suction pods; each suction pod defines a suction region); para. 105 (cooling fluid exiting inlet lumen through outlet apertures); Figs. 10A, 18, 19, 22, 23 (fluid inlet lumen within shaft); Figs. 10A and 15 (suction aperture connecting suction line and suction region); Fig. 23 (outlet aperture defined by shaft); para. 99 (portion of probe is at least partially within a suction region); Fig. 15 (suction region) and Fig. 19 (shaft within suction region defined by suction pod). Applicants note that there is no requirement that a claim amendment must include exactly the same nomenclature as provided in the specification. MPEP §608.01. Claims 20 and 27 are canceled without prejudice. Applicants respectfully submit that the rejection of claim 42 under 35 U.S.C. §112¶2 is moot in view of claim 39 as amended. Reconsideration and allowance of the application, as amended, are respectfully requested.

### **I. Allowable Claim**

Applicants kindly acknowledge that dependent claim 43 would be allowable if rewritten in independent form. In accordance with the indication of allowability, claim 43 is amended to include the elements and limitations of independent claim 39. Thus, claim 43 is allowable.

### **II. Withdrawn Rejection / References**

Applicant kindly acknowledges that the prior rejections of claims based on U.S. Patent No. 6,663,622 to Foley *et al.* have been withdrawn. The following remarks address the new grounds of rejection based on U.S. Patent No. 6,849,075 to Bertolero (hereafter “Bertolero”) and U.S. Application No. 2002/0002372 to Jahns *et al.* (hereafter “Jahns”).

### **III. Claims 1-11, 13-19, 21-26 and 29-38 are Novel Over Bertolero**

Independent claims 1, 7, 13, 18, 26 and 33 and respective dependent claims 2-6, 8-11, 14-19, 21-25, 29-32 and 34-38 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Bertolero. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

It is alleged in the Office Action that the “connector” as recited in the claims is the trough 420 described by Bertolero, the “suction region” as recited in the claims is defined as the “area around the ports [412],” an “operative element” as recited in the claims is the ablation member 410 described by Bertolero and the ablation member 410 “must” have lumens and fluid outlets, and that passage would be “within the connection trough [420].” Office Action (p. 3). Reference is generally made in the Office Action to cooling members with fluid inlets and outlets, but no specific section of Bertolero is identified. Instead, reference is made to claim 71. Office Action (p. 3). Applicants respectfully submit the claims as amended recite structural features that render the rejection and Office Action allegations moot.

Bertolero fails to disclose, teach or suggest an electrophysiology device having “a shaft carrying an operative element” as recited in claims 1 and 8 and “a shaft carrying at least one operative element” as recited in claim 13. Rather, Bertolero explains that the ablation member 410 comprises a linear radio frequency coil. Bertolero (col. 16, lines 19-20). Bertolero refers to a “support member” (Bertolero, col. 16, lines 25-26), but as “described above” (Bertolero, col. 16, line 17) and as shown in Fig. 2 of Bertolero, the support member 104 is not a shaft that carries the ablation element 410. Instead, the support member 104 is separated from the ablation element 410 and extends between tissue contacting members 102.

Moreover, Bertolero fails to disclose, teach or suggest a shaft carrying an operative element, and the same shaft “defining an internal fluid lumen and a fluid outlet” as recited in claim 1, a support structure carrying at least one operative element and “defining an internal fluid lumen and a fluid outlet” as recited in claim 18, and a support structure carrying at least one operative element, and “defining an internal fluid lumen and a least one fluid outlet” as recited in claim 39. It is alleged that Bertolero describes a cooling member with fluid inlets and outlets, and that the ablation member 410 “must have complementary lumens and fluid outlets.” Office Action (p. 3). To support the rejection, the Office Action refers to claim 71. Claim 71, however, recites components of a cooling member and explains that “fluid outlet ports” are “disposed along the at least one tissue contacting member [102]” and that a “fluid inlet port” is “coupled with the fluid outlet ports.” A general reference to a cooling member (which is not even illustrated by Bertolero) having an inlet port and an outlet port does not disclose, teach or suggest a shaft or support structure that carries an operative element, and the same shaft or support structure defining both an internal fluid lumen and a fluid outlet. Further, col. 15, lines 10-32 of Bertolero fail to disclose, teach or suggest this configuration. Instead, Bertolero

explains that a tubular member may be disposed within a tissue contacting member 102 or that a cooling substance may flow out of a tissue contacting member, but Bertolero does not disclose, teach or suggest a shaft or support structure that defines both an internal fluid lumen and a fluid outlet and, therefore, cannot support the rejection.

In addition to these deficiencies, claims 1, 7, 13, 18, 26 and 33 have been amended to recite structural components including main body, a suction line extending through the main body, at least one suction pod, a suction region being defined within the at least one suction pod and being connected to the suction line through a suction aperture formed through the at least one suction pod. Thus, claims 1, 7, 13, 18, 26 and 33 recite that a suction region is defined within a suction pod. Therefore, the Office Action allegation (Office Action, p. 3) that a suction region is defined by the “area around the ports [412]” is moot since this allegation is contrary to the structural configurations recited in the claims.

Bertolero also fails to disclose, teach or suggest “a connector configured to removably secure the shaft of the electrophysiology device to the suction device such that the shaft extends through the suction region” as recited in claim 1, “a connector configured to removably secure the shaft of the electrophysiology device to the suction device such that a portion of the shaft extends through the at least one suction region” as recited in claim 7, “a connector configured to removably secure the shaft of the electrophysiology device to the suction device such that the shaft extends through the suction regions” as recited in claim 13, “wherein the electrophysiology device and suction device are respectively configured such that the support structure extends through the suction region” as recited in claim 18, “wherein the electrophysiology device and suction device are respectively configured such that the support structure extends through the suction region” as recited in claim 26, “wherein the electrophysiology device and suction device are respectively configured such that the support structure extends through the suction regions” as recited in claim 33, and “securing a portion of the support structure to tissue with a suction device such that the support structure extends through a suction region of the suction device” as recited in claim 39.

As discussed above, the claim amendments recite that a “suction region” is defined “within” a suction pod and, therefore, a “suction region” cannot be the area around suction ports 412 as alleged in the Office Action. Therefore, the rejection is moot since Bertolero describes two parallel lines of suction apertures 412, and the ablation member / coil 410 is not within and does not extend through a suction region defined by any suction aperture 412. In this regard,

Bertolero describes a configuration that is the opposite of the configuration recited in claims 1, 7, 13, 18, 26, 33 and 39.

Bertolero also fails to disclose, teach or suggest a connector configured so that a shaft that extends through the suction region and “the fluid outlet defined by the shaft is within the suction region” as recited in claim 1, and fails to disclose, teach or suggest a support structure that extends through the suction region and “the fluid outlet defined by the support structure is within the suction region” as recited in claim 18. The Office Action has not identified a particular “fluid outlet.” Nevertheless, Bertolero fails to disclose, teach or suggest a shaft or support member that carries an operative element and also defines a fluid outlet, which is positioned within a suction region defined “within” a suction pod since no portion of the ablation member 410 is within any suction region, and no fluid outlet of a shaft or support structure is within a suction region.

Bertolero also fails to disclose, teach or suggest a connector configured so that “a portion of the shaft extends through the at least one suction region” and, in addition, the same shaft is “below the bottom surface of the suction pod” as recited in claim 7, and a connector configured so that “the support structure extends through the suction region” and, in addition, the same support structure is “below the bottom surface of the suction pad” as recited in claim 26. It is alleged in the Office Action that a portion of the ablation member 410 is partially disposed in the trough 420; however, the ablation member 410 is not carried by a shaft or support structure that extends through a suction region defined within a suction pod as recited in claims 7 and 26.

Bertolero also fails to disclose, teach or suggest a connector configured such that the shaft carrying the operative element extends through more than one suction region and, in addition, “a substantial majority of the operative element . . . is between the suction regions” as recited in claim 13, and a connector configured such that a support structure carrying the operative element extends through more than one suction region and, in addition, “a substantial majority of the operative element is between the suction regions” as recited in claim 33. Rather, as shown in Fig. 4 of Bertolero, no portion of the ablation member 410 is arranged as recited in these claims.

In view of the above remarks, Applicants respectfully submit that independent claims 1, 7, 13, 18, 26, 33 and 39 are novel over Bertolero given the substantially different structural configurations recited in these claims relative to Bertolero. Dependent claims 2-6, 8-11, 14-19, 21-25, 29-32 and 34-38 incorporate the elements and limitations of respective independent

claims 1, 7, 13, 18, 26 and 33 and, therefore, are also believed allowable. MPEP § 2143.03. Further, Bertolero and the related Office Action allegations are not relevant to various dependent claims in view of the amendments to independent claims reciting a suction region defined “within” a suction pod and the other structural configurations recited in amended independent claims.

Accordingly, Applicants respectfully request that the rejection of claims 1-11, 13-19, 21-27 and 29-38 under §102(e) be withdrawn.

#### **IV. Claims 12 and 28 Are Patentable Over Bertolero**

Dependent claims 12 and 28 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Bertolero. To establish *prima facie* obviousness of a claim, all the claim limitations must be taught or suggested by the prior art. MPEP §2143.03. Applicant respectfully requests that the rejection of dependent claims 12 and 28 under §103(a) be withdrawn in view of the deficiencies of Bertolero discussed above with respect to independent claims 7 and 26.

#### **V. Claims 39, 41, 42 and 44 are Novel Over Jahns**

Independent claim 39 and dependent claims 41, 42 and 44 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Jahns. Applicants respectfully traverse the rejection and respectfully submit that the rejection is moot in view of claim 39 as amended.

The Office Action has not specifically identified a “support structure” allegedly disclosed by Jahns. Nevertheless, Jahns fails to disclose, teach or suggest a support structure that carries an operative element and also defines “an internal fluid lumen and a least one fluid outlet” and “securing a portion of the support structure to tissue with a suction device such that the support structure extends through a suction region of the suction device” as recited in claim 39. In contrast, Jahns describes a separate, external fluid conduit 26 that is attached to the ablation device 12 for irrigating the ablation site with fluid, and explains that fluid openings 46 may be disposed “on” the ablation device 12. Jahns (para. 45). Jahns explains that fluid openings 46 may be located with the electrode 22 itself. Jahns (para. 52). However, assuming the electrode 22 is the “operative element” as recited in claim 39, the electrode 22 is not also a “support structure” that carries an operative element and, in addition, that defines an internal fluid lumen and at least one fluid outlet. As such, Jahns also fails to disclose, teach or suggest supplying

cooling fluid “through the internal fluid lumen of the support structure” as recited in claim 39. Further, Jahns does not disclose, teach or suggest “drawing fluid from the at least one fluid outlet of the support structure and into the suction device” as recited in claim 39. The Office Action has not specifically identified a support structure and has not specifically identified a fluid outlet of a support structure, which also defines an internal fluid lumen as recited in claim 39.

Accordingly, Applicants respectfully submit that independent claim 39 is novel over Jahns. Dependent claims 41, 42 and 44 incorporate the elements and limitations of independent claim 39 and, therefore, are also believed allowable. MPEP § 2143.03.

**VI. Claim 40 is Patentable Over Jahns in view of Bertolero**

Dependent claim 40 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Jahns in view of Bertolero. Applicant respectfully requests that the rejection of dependent claim 40 under §103(a) be withdrawn in view of the deficiencies of Jahns and Bertolero discussed above.

**CONCLUSION**

Applicants respectfully submit that the application is in condition for allowance in view of the forgoing amendments and remarks. If there are any remaining issues that can be resolved by telephone, Applicants invite the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,

**VISTA IP LAW GROUP LLP**

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By: / Gary D. Lueck /

Gary D. Lueck  
Reg. No. 50,791  
Attorneys for Applicants

12930 Saratoga Avenue, Suite D-2  
Saratoga, California 95070  
Telephone: (714) 449-8433  
Facsimile: (408) 877-1662